

Remarks

Claims 1-21 are currently pending. Claims 1, 5-17, 12, 16-18, 20, and 21 have been amended. Applicants assert that all claims are in condition for allowance as set forth more fully below.

Finality of the current action

The current Office Action has been made final. Applicants contest the finality of this action. Applicants maintain that the amendments made in the previous response added that the phone specifically produce an electrical signal to cause the sound generating device to play sound. This was new subject matter and good faith arguments were made relative to the previous rejections based on the Stone reference. Applicants maintain those arguments here. The Office Action contends that “all claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action...” As noted above, Applicants made amendments covering new and additional subject matter such that all claims were NOT drawn to the “same claimed invention,” and therefore Applicants request that the finality of the previous Office Action be withdrawn.

Applicants have submitted this response in conjunction with a request for continued examination, but have done so under protest of the finality of the current rejection. Should the finality be withdrawn as requested by the Applicants such that the request for continued examination is unnecessary at this time, the Commissioner is requested to provide a refund of the \$790.00 to the customer number discussed below.

Interview Summary

The undersigned participated in a telephone interview with the Examiner November of 2005. It was discussed that the Applicants position is that there is no signal from the phone in Stone, only increased current draw by the phone which is not a signal. However, it was further pointed out that the increase current draw in Stone is only for receiving incoming calls such that the if the increased current draw is a signal, even so, Stone can only sound the alert for incoming calls and not for other events at the phone.

Double Patenting Rejections

Claims 1-20 have been provisionally rejected for obvious type double-patenting over claims 7-11 of App. 10/101,724. A terminal disclaimer is included herewith.

103 Rejections

Claims 1-3, 5-10, 12-14, 16-19, and 21 stand rejected under 35 USC 103(a) as being unpatentable over Stone (US Pat 5,767,778) in view of Sawada (US Pat 6,810,274). Claims 4, 11, 15, and 20 stand rejected under 35 USC 103(a) as being unpatentable over Stone in view of Sawada and further in view of Haraguchi (US Pat 6,597,279).

Applicants respectfully traverse these rejections.

Applicants again maintain that the increased current draw by the phone in Stone, which results in the playback of the sound file, is not a signal from the phone and that neither Sawada nor Haraguchi account for these deficiencies. However, to advance prosecution at this time, these claims now include recitations to the sound of the sound file also being played in response to events other than an incoming call at the phone. The increased current draw in Stone occurs only for incoming calls. Thus, the alert is sounded only for incoming calls and is not sounded for other events. Accordingly, Stone fails to disclose all of the recitations of these claims. Neither Sawada nor Haraguchi accounts for these deficiencies as neither of these references disclose providing a sound from a sound generating device attached to or otherwise a part of a battery of the cellular telephone upon an event at a cellular telephone other than an incoming call.

Accordingly, claims 1-21 include recitations not disclosed by Stone, Sawada, or Haraguchi. For at least these reasons, claims 1-21 are allowable over the cited combination.

Conclusion

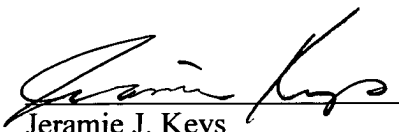
Applicants assert that the application including claims 1-21 is now in condition for allowance. Applicants request reconsideration in view of the amendments and

remarks above and further request that a Notice of Allowability be provided. Should the Examiner have any questions, please contact the undersigned.

No fees beyond the fee for continued examination are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025. Furthermore, should the finality of the previous action be withdrawn such that a request for continued examination is deemed unnecessary for prosecution to proceed, Applicants request that the continued examination fee of \$790.00 be refunded to this same Deposit Account.

Respectfully submitted,

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